

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
MIDLAND-ODESSA DIVISION**

**K3 LOGISTICS, LLC,**  
*Plaintiff/Counter Defendant*

v.

**CRYPTOTHERM  
MANUFACTURING, INC.,**  
*Defendant/Counter Plaintiff,*

v.

**CLAYTON BUSH and NGL WATER  
SOLUTIONS,**  
*Counter Defendants.*

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**MO:24-CV-00001-DC**

**ORDER ADOPTING REPORT AND RECOMMENDATION**

Before the Court is the report and recommendation from United States Magistrate Ronald C. Griffin concerning Plaintiff/Counter-Defendant K3 Logistics, LLC's motion to dismiss and strike defendant Cryptotherm Manufacturing, Inc.'s pleadings.<sup>1</sup> Pursuant to 28 U.S.C. § 636(b) and Rule 1(d) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, Judge Griffin issued his report and recommendation on May 28, 2024. In that same entry, Judge Griffin ordered the clerk of the court to send the Report and Recommendation to Cryptotherm's known address—7555 51 Street Southeast, Calgary, AB Canada, T2C 4AC—because Cryptotherm has yet to retain counsel after prior counsel withdrew earlier this year. As of the date of this order, no party has filed objections to the report and recommendation.

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<sup>1</sup> ECF No. 34.

Pursuant to 28 U.S.C. § 636(b), a party may serve and file specific, written objections to a magistrate judge's proposed findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure de novo review by the district court. When no objections are timely filed, a district court can review the magistrate's report and recommendation for clear error.<sup>2</sup>

Because no party has filed timely objections, the Court reviews the report and recommendation for clear error. Having done so and finding no clear error, the Court accepts and adopts the report and recommendation as its own order.

Accordingly, the Court **ORDERS** that the Report and Recommendation of the United States Magistrate Judge<sup>3</sup> is **ADOPTED**. Plaintiff/Counter-Defendant K3's motion to dismiss and strike Cryptotherm's pleadings<sup>4</sup> is **GRANTED**.

The Court therefore **ORDERS** that Cryptotherm's Original Answer to K3's Complaint<sup>5</sup> be stricken from the record.

The Court also **ORDERS** that Cryptotherm's First Amended Answer to K3's Complaint<sup>6</sup> be stricken from the record.

The Court also **DISMISSES** Cryptotherm's counterclaims for failure to prosecute and failure to comply with the Court's Orders under Rule 41(b).

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<sup>2</sup> See Fed. R. Civ. P. 72 advisory committee's note ("When no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.").

<sup>3</sup> ECF No. 38.

<sup>4</sup> ECF No. 34.

<sup>5</sup> ECF No. 4.

<sup>6</sup> ECF No. 10.

The Court finally **ORDERS** that K3 move, by no later than a date 30 days from the date of entry of any order adopting this recommendation, for clerk's entry of default against Cryptotherm.

It is so **ORDERED**.

SIGNED this 18th day of June, 2024.

A handwritten signature in black ink, appearing to read "David Counts", written over a horizontal line.

DAVID COUNTS  
UNITED STATES DISTRICT JUDGE